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Protracted conflicts in the GUAM area and their implications for international peace, security and development

The situation in the occupied territories of Azerbaijan

Elimination of racism, racial discrimination, xenophobia and related intolerance

Promotion and protection of human rights

The rule of law at the national and international levels

Security Council
Sixty-eighth year

Letter dated 23 May 2013 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

Twenty years ago, in 1993, the Security Council adopted four resolutions condemning the use of force against Azerbaijan and the occupation of its territories; reaffirming respect for the sovereignty and territorial integrity of Azerbaijan and the inviolability of international borders; confirming that the Daghlyq Garabagh (Nagorno-Karabakh) region is part of Azerbaijan; and demanding the immediate, full and unconditional withdrawal of the occupying forces from all the occupied territories (resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993)). The resolutions also made specific reference to violations of international humanitarian law, including the displacement of a large number of civilians in Azerbaijan, attacks on civilians and bombardments of its territory. A series of Security Council presidential statements adopted between 1992 and 1995 are phrased along the same lines.

In other words, the above-mentioned resolutions, which are clearly the most authoritative and binding rulings on the problem, acknowledge that acts of military force were committed against Azerbaijan, and that such acts constituted a violation of international law. Unfortunately, key Security Council demands have still not been implemented, and the mediation efforts conducted for more than 20 years

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within the framework of the Organization for Security and Cooperation in Europe have yet to yield results. Against that background, with a view to deflecting the attention of the international community from the urgent need to address the main problems caused by its continuing aggression against Azerbaijan, Armenia undertakes efforts to distort the actual situation, to downplay the relevance of the Security Council resolutions and to misinterpret their provisions.

Thus, in his letter dated 9 May 2013 addressed to the Secretary-General (S/2013/279), the Permanent Representative of Armenia asserted that Azerbaijan allegedly refused to comply with the key provisions of Security Council resolutions of 1993 regarding the establishment of a ceasefire, and thus obstructed their timely implementation and nullified their intended effect. In this connection, I would like to submit to you a brief research which easily refutes Armenia's interpretation of the events and testifies to its deliberate non-compliance with the resolutions and consistent attempts over the years to obstruct the peace process.

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda items 34, 39, 67, 69 and 83, and of the Security Council.

(*Signed*) Agshin **Mehdiyev**
Ambassador
Permanent Representative

Annex to the letter dated 23 May 2013 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

Non-compliance by the Republic of Armenia with Security Council resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993)

1. As is known, the present-day stage of the conflict between Armenia and Azerbaijan began at the end of 1987, during the existence of the Union of Soviet Socialist Republics (USSR), with Armenia's overt territorial claims on the Daghlyq Garabagh (Nagorno-Karabakh) autonomous oblast of Azerbaijan. Those claims marked the beginning of the assaults on the Azerbaijanis in and their expulsion from both the autonomous oblast and Armenia itself. This is a clear evidence to the fact that secessionist demands, which culminated in killings of thousands of Azerbaijani civilians and in the expulsion of about 1 million Azerbaijanis from their homes in both Armenia and in the occupied territories of Azerbaijan, from the very outset were not "peaceful aspirations", as Armenia asserts. Moreover, contrary to the USSR Constitution, both Armenia and members of the Armenian community of Daghlyq Garabagh adopted a number of decisions to institute the process of unilateral secession of the autonomous oblast from Azerbaijan. Among those decisions was a resolution passed by Armenia's parliament on 1 December 1989 calling for the "unification" of Armenia and Daghlyq Garabagh. During the existence of the USSR, all such decisions of the Armenian side were declared invalid by the competent Soviet Union authorities. Accordingly, Azerbaijan came to independence with the territorial boundaries that it had within the USSR.

2. After the independence of the two former Soviet Union Republics, armed attacks against Azerbaijan intensified. In February 1992 the town of Khojaly in Azerbaijan was notoriously overrun. This happened less than a month after the Security Council recalled "Armenia's solemn commitment to uphold the Purposes and Principles of the Charter, which include the principles relating to the peaceful settlement of disputes and the non-use of force".[1]

3. At the beginning of May 1992, the Armenians seized Shusha, the largest Azerbaijani-populated city and administrative centre in Daghlyq Garabagh. In its presidential note adopted on 12 May 1992, the Security Council expressed deep concern by "recent reports on the deterioration of the situation relating to Nagorno-Karabakh and by violations of ceasefire agreements which have caused heavy losses of human life and widespread material damage, and by their consequences for the countries of the region" and called upon "all concerned to take all steps necessary to bring the violence to an end ...".[2] Despite that, on 18 May 1992, following direct artillery bombardment from within the territory of Armenia, Lachyn, the district situated between Armenia and the Daghlyq Garabagh region of Azerbaijan and mostly populated by the Azerbaijanis, was occupied.

4. By the end of 1992, two other presidential notes were adopted by the Security Council.[3] However, neither those measures within the Security Council nor the efforts of the Conference on Security and Cooperation in Europe (CSCE) prevented

[1] See S/23496.

[2] See S/23904.

[3] See S/24493, 26 August 1992, and S/24721, 27 October 1992.

the spiralling of the war. The simple cause of that was that Armenia's territorial claims towards and military actions against Azerbaijan had been aimed from the very beginning at seizing the territories by means of force and fundamental change of their demographic composition.

5. Armenian attacks against areas within Azerbaijan in 1993 elicited a series of four Security Council resolutions and three presidential notes. It is essential to recall that, in its presidential note dated 6 April 1993, the Security Council for the first time expressed "its serious concern at the deterioration of relations between the Republic of Armenia and the Republic of Azerbaijan", specifically referring to "the invasion of the Kelbadjar district of the Republic of Azerbaijan by local Armenian forces", demanding the immediate cessation of all hostilities and the withdrawal of these forces and "reaffirming the sovereignty and territorial integrity of all States of the region and the inviolability of their borders".[4]

6. In his report dated 14 April 1993 submitted in accordance with request by the Security Council, the Secretary-General stated that "[t]he intensification of fighting in and around Nagorny-Karabakh, especially the recent attacks against the Kelbadjar and Fizuli districts of Azerbaijan, poses a serious threat to the maintenance of international peace and security in the entire Transcaucasus region".[5] In response to Armenia's assertion that "no military forces from the Republic of Armenia were involved in the hostilities in the Kelbadjar district",[6] the Secretary-General made it clear that "*[r]eports of the use of heavy weaponry, such as T-72 tanks, Mi-24 helicopter gunships and advanced fixed wing aircraft are particularly disturbing and would seem to indicate the involvement of more than local ethnic forces*".[7]

7. In that connection, in its resolution 822 (1993) adopted on 30 April 1993, the Security Council reaffirmed the principle of "the inadmissibility of the use of force for the acquisition of territory" applied to inter-State relations, demanding "the immediate cessation of all hostilities and hostile acts with a view to establishing a durable ceasefire, as well as immediate withdrawal of all occupying forces from the Kelbadjar district and other recently occupied areas of Azerbaijan".[8] In their statements following the voting, several Council members made the Armenian side responsible for the escalation in armed hostilities and obstructing the peace initiatives. Thus, the representative of the United Kingdom of Great Britain and Northern Ireland drew attention to the fact that "the latest offensive has again coincided with renewed attempts within the Conference on Security and Cooperation in Europe (CSCE) to get talks re-started" and to "... *an unwillingness on the part of a side which apparently is winning on the ground at any given moment to make any efforts to compromise*".[9]

8. Following the adoption of Security Council resolution 822 (1993), the CSCE Minsk Group, composed of the nine countries, worked out the "timetable of urgent steps" to implement the resolution. In his report to the President of the Security Council dated 27 July 1993, the Chairman of the CSCE Minsk Conference, Mr. Mario Raffaelli, emphasized that the Armenian side had disregarded Security Council demands, launched an attack, seized new territories in Azerbaijan and challenged the

[4] See S/25539.
[5] See S/25600, para. 10.
[6] Ibid., para. 2.
[7] Ibid., para. 10. Emphasis added.
[8] Security Council resolution 822 (1993), 30 April 1993.
[9] See S/PV.3205, p. 12. Emphasis added.

mediation efforts towards a compromise settlement. Thus, according to Mr. Raffaelli, while a meeting of the nine countries of the CSCE Minsk Group in Rome on 22 and 23 July 1993 "was in progress and we were working on the final version of the timetable, we received the news that the city of Agdam, after a continued escalation of hostilities and armed attacks, had been seized by opposing forces. We were then facing a situation where not only had resolution 822 (1993) not been implemented three months after its approval, but further territories of the Azerbaijani Republic were being occupied".[10] The Chairman of the CSCE Minsk Conference further added that "*the seizure of Agdam is in flat contradiction with past Nagorny Karabakh Armenian assurances that they remained committed to a peaceful settlement of the conflict and, specifically, that they had no intention of taking Agdam*". According to Mr. Raffaelli, the taking of Agdam could not be excused on grounds of self-defence: "*I myself had visited the place and, from what my mission and I have seen, I consider that the military situation was such that Agdam posed no serious military threat to Nagorny Karabakh*".[11]

9. Following consultation with the nine countries of the CSCE Minsk Group, the Chairman of the CSCE Minsk Conference made a statement, "strongly condemn[ing] the offensive on, and the reported seizure of, the Azerbaijani city of Agdam" and "ask[ing] for the immediate cessation of hostilities and for the withdrawal from the occupied territory". According to the statement, "[t]his unacceptable act occurred at the very moment when the nine were meeting to prepare the final version of the ceasefire timetable". The nine countries of the CSCE Minsk Group paid particular attention to the fact that "*[i]t specifically violated direct and repeated commitments made to the Chairman of the Minsk Conference by the leaders of the Armenian community of Nagorny Karabakh that they would not seize Agdam*".[12] They concluded by stressing that "*[t]his behaviour, recalling similar actions with respect to the Azerbaijani territory of Kelbadjar, calls into question whether it is possible to continue to include this group in the CSCE negotiating process for the Nagorny Karabakh conflict*".[13]

10. The above-mentioned statement by the nine countries of the CSCE Minsk Group also recalled the responsibility of Armenia: "*Those who encourage the Armenian community of Nagorny Karabakh to continue the fighting and the encroachment on the surrounding territories share responsibility for the continuing loss of Armenian lives and the destruction of the Armenian economy*".[14]

11. On 29 July 1993, the Security Council adopted resolution 853 (1993), condemning "the seizure of the district of Agdam and of all other recently occupied areas of the Azerbaijan", demanding "the immediate cessation of hostilities and the immediate, complete and unconditional withdrawal of the occupying forces involved from the occupied areas of the Azerbaijani Republic". The Security Council also reaffirmed "the sovereignty and territorial integrity of Azerbaijan and of all other States in the region" and "the inviolability of international borders and the inadmissibility of the use of force for the acquisition of territory".[15]

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[10] See S/26184, annex, para. 9.
[11] Ibid., para. 12. Emphasis added.
[12] See S/26184, appendix.
[13] Ibid. Emphasis added.
[14] Ibid. Emphasis added.
[15] Security Council resolution 853 (1993), 29 July 1993.

12. It is essential to recall also the statements made by Council members after the vote.

The representative of Pakistan stated:

> "Pakistan condemns the continuing Armenian aggression against the Azerbaijani Republic and demands the immediate withdrawal of Armenian forces from all occupied Azerbaijani territories. We urge the Republic of Armenia to respect the sovereignty, territorial integrity and political independence of the Republic of Azerbaijan, and we call for a just and peaceful settlement of the problem on the basis of respect for the principles of the territorial integrity of States and the inviolability of internationally recognized frontiers".[16]

According to the representative of France, "[r]ecent events, marked by attacks by local Armenian forces against Agdam, in violation of the commitments made during the recent CSCE mission to the region, call for clear condemnation. This is what this resolution unambiguously does".[17]

Expressing deep concern of the Russian leadership at the offensive actions taken by armed units of Nagorny-Karabakh Armenians, as a result of which the Azerbaijani town of Agdam was seized, the representative of the Russian Federation noted that "these actions have been taken despite assurances to the Russian side by official Armenian representatives that no ground offensive operations by units of Nagorny-Karabakh Armenians would be undertaken and that they did not intend to attack Agdam".[18]

The representative of the United States of America stated that "[t]he seizure of Agdam cannot be justified by any claim to self-defence", adding that "[m]ost serious, this action has disrupted the peace process ...".[19]

According to the representative of Brazil, "the seizure of the Azerbaijani district of Agdam ... put in jeopardy the negotiating efforts".[20]

The representative of Hungary noted "with increasing dismay that, in the absence of effective international action against arbitrary violence and genocide, some are drawing the conclusion that their goals can be achieved through aggression and that territory can be acquired through the use of force and by driving hundreds of thousands of people from their homes with complete impunity".[21]

The representative of Venezuela called "the attention of the Republic of Armenia to the responsibilities that the international community places on it, in terms both of its participation in the conflict and of its ability to contribute effectively to an immediate end thereto".[22]

According to the representative of Spain, "[t]he gradual increase in the military hostilities that coincided with the Rome conference not only indicates that the commitments repeatedly entered into by the Armenian community in Nagorny-Karabakh have been violated, but is also an instance of disregard for the principles

[16] See S/PV.3259, p. 7.
[17] Ibid., p. 8.
[18] Ibid., pp. 9-10.
[19] Ibid., p. 12.
[20] Ibid.
[21] Ibid., pp. 14-15.
[22] Ibid., p. 16.

of international law ...". He further added that his "delegation considers that the capture of the city of Agdam and its surrounding district means that Security Council resolution 822 (1993) has clearly been violated".[23]

13. Security Council resolutions 822 (1993) and 853 (1993), the above-mentioned statements and calls by Council members and the CSCE-led mediation efforts did not prevent the Armenian side from continuing its offensive actions and seizing new territories within Azerbaijan.

14. In its presidential note adopted on 18 August 1993, the Security Council condemned the attack on the Fizuli region of Azerbaijan and demanded "a stop to all attacks and an immediate cessation of the hostilities and bombardments, which endanger peace and security in the region, and an immediate, complete and unconditional withdrawal of occupying forces from the area of Fizuli, and from the districts of Kelbadjar and Agdam and other recently occupied areas of the Azerbaijani Republic". The Council also reaffirmed "the sovereignty and territorial integrity of the Azerbaijani Republic and of all other States in the region and the inviolability of their borders" and expressed "its grave concern at the effect these hostilities have had on the efforts of the Minsk Group of the Conference on Security and Cooperation in Europe (CSCE) to achieve a peaceful solution to the conflict". The emphasis was made on the role of Armenia, which had been called "to use its unique influence" and "to ensure that the forces involved are not provided with the means to extend their military campaign still further".[24]

15. Notwithstanding the above-mentioned demands of the Security Council, the Armenian forces continued offensive operations within Azerbaijan and completed the seizure of Fizuli by 23 August 1993. The same day, they captured the Jabrayil district and, on 31 August 1993, the Gubadly district of Azerbaijan. Thus, in less than a month after the adoption of Security Council resolution 853 (1993), the Armenian forces attacked and captured three other districts of Azerbaijan situated outside the Daghlyq Garabagh region.

16. At the end of October 1993, the Chairperson-in-Office of the CSCE Council, Baroness Margaretha af Ugglas, visited the three South Caucasus countries, Armenia, Azerbaijan and Georgia. In the report on her visit, the following comments attract particular attention:

> "... I met the leadership of Nagorno Karabakh to discuss with them the prospects of making some progress in tackling issues related to the conflict. Its representative, Mr. Kocharyan, disassociated himself from the comprehensive approach of the Minsk Group in trying to address the issues of the conflict. He questioned the wisdom of making unilateral concessions to the other side before the start of the Minsk Conference — such concessions were an integral part of the timetable".[25]

The Chairperson-in-Office of the CSCE Council further added:

> "... the increase of the territory under occupation, the uncertainty about the extension and consolidation of the ceasefire, the growing number of refugees and the absence of a sense of urgency in addressing the conflict are all factors

[23] Ibid., p. 17.
[24] See S/26326.
[25] CSCE Communication No. 301, Prague, 19 November 1993, p. 8.

that give rise to grave concern. Equally troublesome is *the unacceptable scorched earth policy practised by the military forces of Nagorno Karabakh*. I raised the latter problem and expressed my own views on this practice in unequivocal terms, both in discussions with representatives of Armenia and my talks with the leadership of Nagorno Karabakh".[26]

17. On 14 October 1993, the Security Council adopted resolution 874 (1993), reaffirming "the sovereignty and territorial integrity of the Azerbaijani Republic and of all other States in the region" and "the inviolability of international borders and the inadmissibility of the use of force for the acquisition of territory" and calling upon the parties concerned "to make effective and permanent the ceasefire established as a result of the direct contacts undertaken with the assistance of the Government of the Russian Federation in support of the CSCE Minsk Group", reiterating "its full support for the peace process" and calling for "the immediate implementation of the reciprocal and urgent steps provided for in the CSCE Minsk Group's "Adjusted timetable", including the withdrawal of forces from recently occupied territories and the removal of all obstacles to communications and transportation".[27]

18. However, soon after of the adoption of that resolution and despite the intense diplomatic efforts and the ceasefire agreement reached on 24 October 1993, military operations in the region renewed and the Armenian forces occupied two other districts of Azerbaijan situated outside the Daghlyq Garabagh region, namely, Goradiz and Zangelan. On 26 October 1993, the Chairman of the CSCE Council expressed deep concern in that regard, emphasizing that the "*[a]cquisition of territory by force can never be condoned or accepted as a basis for territorial claims*".[28] A declaration approved on 4 November 1993 by the nine countries of the CSCE Minsk Group, concerning the latest developments in the conflict on the ground, are phrased along the same lines: "*No acquisition of territory by force can be recognized, and the occupation of territory cannot be used to obtain international recognition or to impose a change of legal status*".[29] In its statement of 9 November 1993, the European Union, inter alia, reiterated "the importance it attaches to the territorial integrity and sovereignty of the Republic of Azerbaijan, in accordance with the principles of the CSCE".[30]

19. On 12 November 1993, the Security Council adopted resolution 884 (1993), "*particularly condemn[ing] the occupation of the Zangelan district and the city of Goradiz, attacks on civilians and bombardments of the territory of the Azerbaijani Republic*"; demanding from the parties concerned "the immediate cessation of armed hostilities and hostile acts, the unilateral withdrawal of occupying forces from the Zangelan district and the city of Goradiz, and the withdrawal of occupying forces from other recently occupied areas of the Azerbaijani Republic" and strongly urging the parties concerned "to resume promptly and to make effective and permanent the ceasefire established as a result of the direct contacts undertaken with the assistance of the Government of the Russian Federation in support of the CSCE Minsk Group, and to continue to seek a negotiated settlement of the conflict ...". The Council also reaffirmed "the sovereignty and territorial integrity of the Azerbaijani

[26] Ibid. Emphasis added.
[27] Security Council resolution 874 (1993), 14 October 1993.
[28] CSCE Communication No. 284, Prague, 26 October 1993. Emphasis added.
[29] See S/26718, Enclosure I. Emphasis added.
[30] See S/26728, annex.

Republic and of all other States in the region", as well as "the inviolability of international borders and the inadmissibility of the use of force for the acquisition of territory".[31]

20. In its statement before the voting, the representative of Pakistan stated, inter alia, the following:

> "My delegation remains gravely concerned over the situation in the Azerbaijani Republic resulting from the aggression against its territory. The Council must take immediate cognizance of the latest offensive launched by the Armenian forces and the occupation of the Azerbaijani districts of Djebrail, Fizuli, Zangelan and Kubatli. Not only does this constitute a violation of the sovereignty and territorial integrity of a Member State of the United Nations, but the aggression has also resulted in a colossal humanitarian tragedy, forcing more than 60,000 local inhabitants to flee their homes and seek refuge in neighbouring countries".[32]

21. Several Council members made statements following the voting, condemning the excessive use of force, focusing on the need to immediately cease armed hostilities and reinstate the ceasefire and expressing their support for the CSCE Minsk process. Apart from that, a special emphasis was made on the humanitarian emergency in the region, particularly the forcible displacement of a large number of civilians in Azerbaijan. Some Council members noted the critical importance of the principle of the inadmissibility of the use of force for the acquisition of territory.

The representative of France expressed his Government's serious concern "at the recent resumption of hostilities between the parties involved in the Nagorny Karabakh conflict and by the occupation of the Zangelan district, which has led to the forced displacement of tens of thousands of persons, thus making the civilian population of the region suffer even more".[33] He further noted the following:

> "These events deserve to be most vigorously condemned. The Council has just done that unambiguously by adopting this resolution. *The acquisition of territory by force is inadmissible and doing so for the purposes of negotiation cannot be countenanced.* We demand the immediate cessation of armed hostilities, the unilateral withdrawal of occupying forces from the Zangelan district and the withdrawal from other recently occupied areas of the Azerbaijani Republic in accordance with the adjusted timetable of the Minsk Group".[34]

The representative of Hungary stated, inter alia, the following:

> "We should like to stress how important is the reaffirmation, in the resolution that has just been adopted, of the sovereignty and territorial integrity of the Azerbaijani Republic and of all other States in the region, as well as the resolution's reaffirmation of the inadmissibility of the use of force for the acquisition of territory. We should also like to highlight the position set out in the Minsk Group's declaration of 4 November last, that *the occupation of*

[31] Security Council resolution 884 (1993), 12 November 1993. Emphasis added.
[32] See S/PV.3313, pp. 4-5.
[33] Ibid., pp. 6-7.
[34] Ibid. Emphasis added.

territory cannot be used to try to obtain international recognition or to impose a change of legal status".[35]

The representative of the United Kingdom emphasized that "[v]iolation of the sovereignty and territorial integrity of the Azerbaijani Republic, and of all other States in the region, must cease, as this and previous resolutions have made clear".[36]

According to Brazil: "[t]oday's resolution complements resolutions 822 (1993), 853 (1993) and 874 (1993). The parties and others concerned must abide fully by those resolutions, including the provisions concerning the cessation of armed hostilities and other hostile acts, and the withdrawal of occupying forces from recently occupied areas of the Azerbaijani Republic".[37]

22. The ceasefire was established on 12 May 1994 and has subsequently been reconfirmed on a number of occasions. On 26 April 1995, the President of the Security Council made a statement, expressing the Council's "satisfaction that the ceasefire in the region agreed upon on 12 May 1994 through the mediation of the Russian Federation in cooperation with the OSCE Minsk Group has been holding for almost a year". This totally disproves Armenia's assertion that Azerbaijan allegedly refused to comply with the key provisions of the Security Council resolutions of 1993 regarding the establishment of a ceasefire.[38]

23. In its above-mentioned presidential statement of 26 April 1995, the Council also reaffirmed "all its relevant resolutions, inter alia, on the principles of sovereignty and territorial integrity of all States in the region" and also "the inadmissibility of the use of force for the acquisition of territory".[39] However, key Security Council demands in that regard, including in the first place the withdrawal of the occupying forces from the occupied territories of Azerbaijan, have still not been implemented. Moreover, Armenia's insistence on unrealistic annexationist claims and consistent measures it undertakes in the occupied territories of Azerbaijan with a view to further consolidating the current status quo of the occupation and preventing the return of more than 700,000 internally displaced Azerbaijanis to their homes represent an open challenge to the conflict-settlement process and a serious threat to international and regional peace and security.

24. There have been numerous instances in history of States trying to disguise their own role in the forcible seizure of the territory of another State by setting up puppet regimes in the occupied territories.[40] As the practice of the past shows, such regimes are sometimes being formed with the collaboration of certain segments of the population of the occupied country or territory. These features are evidenced in the policies and practices followed by Armenia in the occupied territories of Azerbaijan. Moreover, having succeeded in forcing all Azerbaijanis to leave the Daghlyq Garabagh region, Armenia spares no efforts to introduce the Armenian community of the region as its sole representative. At a certain stage, Armenia's unrealistic claims on that issue were a serious obstacle in the peace process, giving rise to the following important clarification made by the President of the Minsk

[35] Ibid., pp. 9-10. Emphasis added.
[36] Ibid., pp. 10-11.
[37] Ibid., pp. 11-13.
[38] See, for example, S/2013/279.
[39] S/PRST/1995/21.
[40] Adam Roberts, "Transformative military occupation: applying the laws of war and human rights", available from http://www.iihl.org/iihl/Documents/roberts_militaryoccupation1.pdf.

Group in respect of the equality between the Armenians and Azerbaijanis of Daghlyq Garabagh as "interested parties":

> "On the basis of the mandate of the Council of Ministers of CSCE of March 24, the solution of the problem belongs to the Chairmanship of the [Minsk] Conference, after consultation with the eleven countries of the Minsk Group. Other aspects of this problem have been by and large agreed to: it was thus decided that the 'interested parties' would take part in the proceedings of the working groups in conditions of equality with the other participants, whereas at the plenary sessions they would only be present and, if necessary, could express their views only through the Chair.
>
> "*These decisions, however, concern both 'interested parties' without any distinction between them. In the course of his consultations, the Italian Chairman could not find any consensus among the other countries of the Minsk Group for the Armenian thesis according to which the 24 March mandate would enable him to give the Armenian party of Nagorno Karabakh a formal priority over the Azeri party, or even call the former 'elected representatives'*".[41]

25. With regard to the role of Armenia in the conflict and its consequences, the ambiguous language of the Security Council resolutions should certainly not mislead. Needless to say that the resolutions are the product of difficult political compromises. Thus, according to one Council member, it was essential "to strike a reasonable balance between acknowledging that tension exists between Armenia and Azerbaijan and recognizing the localized nature of the fighting".[42] Accordingly, the impression here is that the intention was to maintain "a reasonable balance" rather than to call things by their right names. However, not only Armenia's role as the aggressor is clear but the level of its continuing effective control over the Daghlyq Garabagh and other occupied territories of Azerbaijan is significant, and these actions entail State responsibility under international law.

26. As is seen from the information above, the resolutions of the Security Council and its presidential statements, along with the documents of the CSCE, put all the blame, to a larger extent, on the local Armenian forces and their leaders, while the Government of Armenia is called "to use its unique influence" to achieve compliance by them with Security Council demands. In reality, the key figures among those Armenian local leaders in Daghlyq Garabagh were the present and the previous Presidents of Armenia. The present President of Armenia (since 2008), Serzh Sargsyan, started his career as "Chairman" of the separatists' "Self-Defence Forces Committee" from 1989 to 1993, a position which he left in 1993, in order to assume the mantle of Minister of Defence (and later Prime Minister) of Armenia.[43] His predecessor, Robert Kocharyan, whom the Chairperson-in-Office of the CSCE Council had met during her visit to the South Caucasus in October 1993,[44] was the first "president" of the separatists, from 1994 to 1997. He then moved to Armenia and became its Prime Minister, and from 1998 to 2008 served as President of Armenia. The career of the current Minister of Defence of Armenia, Seyran Ohanyan, is also remarkable, especially as far as his frequent service movements

[41] CSCE Communication No. 279, Prague, 15 September 1992, p. 3. Emphasis added.
[42] See S/PV.3205, p. 11.
[43] See http://www.president.am/en/serzh-sargsyan/.
[44] See para. 16 above.

between Armenia and the occupied Daghlyq Garabagh region of Azerbaijan is concerned. Thus, he served at various positions in the separatist's "military command structures" in Daghlyq Garabagh from 1992 to 1998, before being appointed as commander of the 5th army corps of the armed forces of Armenia. The next year he was appointed "Minister of Defence" of the so-called "Nagorno-Karabakh Republic" ("NKR"), a position which he left in 2007 to become first Deputy Minister of Defence — Chief of General Staff of the armed forces of Armenia. Since 2008, Seyran Ohanyan serves as Minister of Defence of Armenia.[45]

27. Indeed, the movement of personnel in leadership echelons between the supposedly separate entities has happened on the highest possible level. In such circumstances, it is (to say the least) a reasonable conclusion that the present de jure top organs of Armenia were its de facto organs even while hoisting the banner of the so-called "Nagorno-Karabakh Republic" ("NKR"). After all, how can Armenia credibly deny attributability of decisions taken and policies executed by two consecutive Heads of State in their previous incarnations as "President of NKR" and "Chairman" of the separatist's "Self-Defence Forces Committee"? Those decisions and policies are clearly the reason why the two individuals were later rewarded by elevation to Armenia's top position. If Yerevan itself looks upon a leadership role in the "NKR" as a natural stepping-stone on the path of career-building within Armenia — there being no temporal interludes or other partitions creating temporal or other buffer zones and dividing the two purportedly separate entities — surely Azerbaijan is entitled to consider the "NKR" a mere backyard of Armenia, and regard the two as inseparable.

28. In his interview with the British journalist Thomas de Waal of 15 December 2000, current President of Armenia, Serzh Sargsyan, openly admitted that the war was unleashed by Armenia and that its aim was a long-nurtured plan to seize Azerbaijani territory. Furthermore, he made it clear that, during the active military phase of the conflict, it was precisely the Armenian side which blatantly ignored the demands by the Security Council for an immediate halt to all military operations and hostilities, with a view to establishing a lasting ceasefire. At a time when there was a real possibility of halting the bloodshed and saving the lives of thousands of people, the Armenian leaders reasoned otherwise. The following words by President Sargsyan speak for themselves:

> "*We embarked once on a war like this, but I don't think we could do it a second time. It would be simply impossible. It might be possible, perhaps, in some fifty or a hundred years' time. But when you say to a soldier: Stand back, he won't move forward again. There were no solid guarantees. Look, they were saying, first let's give up the territory, then we can review the situation. But why should they review the situation? Why? It made no sense*".[46]

29. During the period since the adoption of Security Council resolutions, attempts to depart from key commitments and obligations contained therein have only contributed to deepening mistrust and thus to making the prospect of the soonest resolution elusive. It should be concluded that the achievement of peace, security and stability is possible first and foremost only if the consequences of Armenia's unlawful use of force are removed, thus ensuring that the occupation of Azerbaijan's

[45] See http://www.gov.am/en/gov-members/20/.

[46] See http://carnegieendowment.org/2012/02/24/president-interview-andtragic-anniversary/9vpa.

territories is ended and that the right of internally displaced Azerbaijanis to return to their homes, property and possessions is guaranteed and implemented. That is what international law and the relevant Security Council resolutions require, and that is what can in no way be introduced as a bargaining chip in the conflict-settlement process. Thus, as far back as 1994, the Secretary-General of the United Nations stated the following:

> "The position of the United Nations is based on four principles which have been mentioned in the different resolutions of the Security Council. The first principle is the territorial integrity of Azerbaijan. The second principle is the inviolability ot the international boundaries; the third principle is the inadmissibility of the use of force for the acquisition of territory; and the fourth principle is the immediate and unconditional withdrawal of all foreign troops from occupied territories of Azerbaijan".[47]

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[47] Press Release, Secretary-General, United Nations Department of Public Information, SG/SM/5460, 31 October 1994.